

LAW OFFICES

MILLER, MILLER & CANBY

CHARTERED

200-B MONROE STREET
ROCKVILLE, MARYLAND 20850

(301) 762-5212

FAX (301) 424-9673

COMMUNITY PLANNING
AND DEVELOPMENT SERVICES

JAMES R. MILLER, JR.*
PATRICK C. MCKEEVER
JAMES L. THOMPSON
LEWIS R. SCHUMANN
JODY S. KLINE
TIMOTHY D. JUNKIN
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MICHAEL G. CAMPBELL
SOO LEE-CHO
W. CHRISTOPHER ANDREWS
*Of Counsel

January 9, 2004

City of Rockville Historic District Commission
Rockville City Hall
101 Monroe Street
Rockville, Maryland 20850

RE: Cafeteria/Activities Building at Chestnut Lodge;
Historic Designation

Dear Mrs. Anita Powell and Members of the Historic District Commission,

In your review of the nomination for local historic designation of the Cafeteria/Activities Building on the Chestnut Lodge property, the owner, Chestnut Lodge Properties, Inc. of Bethesda, Maryland requests that you please consider the points made in this letter and the attached analysis performed by the firm of R. Christopher Goodwin & Associates of Frederick, Maryland.

In addition to the findings stated in the Goodwin report, it is the opinion of the property owner, that the Cafeteria/Activities Building should not be designated historic for the following reasons:

- I. The subject building does not meet the City's consistently applied standard of being more than 50 years old at the time of designation.
 - A. The City has consistently treated only those buildings that are more than 50 years old as being eligible for designation as a single-site historic district. The nomination form submitted to the City states that the Cafeteria/Activities Building was completed in 1955 and the property owner's research confirms that fact thus placing the subject property outside of the category of sites automatically eligible for consideration.

A review of the City's records revealed that the HDC has never before bestowed a structure that is less than 50 years in age with single-site district status. Attached to this letter is a chart prepared with information obtained from the records of the City. This table lists all of the "single site historic districts" that have been created within the City, including the date of completion of construction and the

date of designation. None of the structures listed as single-site districts within the City of Rockville were less than 50 years in age at the time of designation.

- B Notwithstanding the City's past practice, the property owner recognizes that the National Register of Historic Places (the guidelines of which the City appears to follow) has included in its inventory of historic resources sites and buildings that are less than 50 years in age. But in so designating such site the National Register uses the high standard of "exceptional significance."

"Exceptional significance" is defined by the National Register program as *the measure of a property's significance within its appropriate historic context*. In the case of the Cafeteria/Activities Building, which is less than 50 years in age, this standard would require that its significance as a historic structure be evaluated, not in isolation, but within the context of the architect's body of work as well as within the historical and architectural development of the period.

As a structure that is less than 50 years in age, the designation of the Cafeteria/Activities Building as a single-site district contrary to the HDC's past policies and practices would be improper. Moreover, even if the HDC were to deviate from its established criteria for single-site districts, designation of the Cafeteria/Activities Building would require a higher standard of review and a finding of exceptional historical significance pursuant to the guidelines of the National Register of Historic Places, which the structure fails to meet, as detailed in the attached report prepared by R. Christopher Goodwin & Associates, Inc.

II. Designation of the Cafeteria/Activities Building as historic would be unfair and a violation of law.

A. Fairness.

The City has reviewed the Chestnut Lodge property a number of times in the past 30 years for potential historic designation and, in each instance, declined to designate the Cafeteria/Activities Building as "historic."

The City's consideration of the historic nature of the site began in April 1974, when eight (8) acres of the Chestnut Lodge property were included within the boundaries of the City of Rockville's West Montgomery Avenue Historic District. Not long thereafter, the boundary lines of the historic district were redrawn at the request of the Bullard family and other property owners (as part of the comprehensive rezoning associated with the Master Plan in December 1974) so that only the first 200 feet along W. Montgomery Avenue and the Veirs Addition lots along the west side of Thomas Street were left in the historic district. The remainder of the original 5-acre Woodlawn Hotel lot (approx. 3.57 acres) was removed from the historic district.

The remainder that was removed from the historic district in 1974 was then nominated for historic district status in 1997 by the Historic District Commission

The Historic District Commission hired a consultant through the RFP procedure to assemble the history and archeological basis of the entire Bullard property (which encompassed Rose Hill Farm as well as the 20-plus acre Woodlawn/Chestnut Lodge campus). The consultant, Ward Bucher, recommended limited historic designation for both properties, and notably did not identify the Cafeteria/Activities Building to be historically significant.

The Historic District Commission held public hearings on the nominations and in the summer of 1997 found that the remaining 3.57 acres of the original Woodlawn Hotel lot was eligible for historic designation, but that the rear portion of the property (i.e., the remaining 12.4 acres of the Chestnut Lodge campus, which includes the Cafeteria/Activities building) was not eligible.

Then in 2001, the Historic District Commission was asked by the Mayor and Council to prioritize the site's significant buildings and relay citizen comments and suggestions on the reuse of the property. The minutes of the February 20, 2001 meeting of the Historic District Commission indicates that the site's buildings were ranked as follows: the original Woodlawn Hotel/Chestnut Lodge Building and Dr. Frieda Fromm-Reichmann's House were deemed to be structures of primary significance; the treed environmental setting was also considered of primary significance; and the laundry, ice house, the Bullard house, and the stable were found to have secondary significance. No other structures on the site were considered to be significant.

In April 2002, the Planning Commission reviewed the above information and recommendations of the Historic District Commission, and recommended to the Mayor and Council that the remaining 3.57 acres of the original Woodlawn Hotel lot be included in the locally designated historic district. The rationale given in the staff report for recommending approval of the proposed designation was that it **"provides clear direction about the City's preservation priorities for consideration by the [Washington-Waldorf School] in the preparation of their plans for development and reuse of the property."**

If now, in addition to the six (6) structures located within the West Montgomery Avenue Historic District, the Cafeteria/Activities Building is designated as a single-site historic structure, the Washington-Waldorf School as well as Associated Companies would have relied on the City's previous findings and actions to their financial detriment.

On the basis of the multiple and exhaustive research efforts conducted on the Chestnut Lodge property in the past, none of which even hinted at possible designation of the Cafeteria/Activities Building, it would be unfair to now declare the structure historic. While the property owner would concede that a structure might overnight obtain historic importance (e.g., the Texas Book Depository), those circumstances do not apply in this case and it is clear that during frequent and detailed review in the past of the history of Chestnut Lodge no one saw fit to suggest that the subject building be considered historic.

B Designation at this time would be illegal because it is contrary to the property owner's "reasonable investment backed expectations."

The "fairness" issue described above has a legal aspect as well. A typical developer, exercising appropriate "due diligence," would have reviewed some if not all of the sources mentioned above about Chestnut Lodge. On the issue of historic preservation, a prudent purchaser would not have identified any indication that the Cafeteria/Activities Building might have to be preserved thus influencing the development of the Chestnut Lodge property. In other words, the price that a land developer would pay for the Lodge property would not be discounted for the potential cost due to rehabilitation/stabilization and/or loss of revenue due to a decreased number of lots that could be achieved because of a requirement to preserve the Cafeteria/Activities Building. While it is no longer a question that historic preservation regulations are appropriate in limiting or controlling development of certain land, public agencies must examine the degree to which such action would interfere with reasonable, investment-backed expectations of private property owners. See *Penn Central Transportation Company v. New York City*, 438 U.S. 104 (1978).

Preservation of the Cafeteria/Activities Building causes the following problems in achieving the optimum form of development for the subject property. The price that the property owner contracted to pay for the property was based on a realistic estimate of what revenue the project would likely generate based on study plans predicated on a review of published City documents. Since the City had provided no indication to prospective purchasers about preservation requirements for other structures located outside of existing historic districts on the property, and because this property was so thoroughly researched in multiple previous efforts, the property owner had a reasonable expectation about the return that it could receive from development of the Chestnut Lodge property. Designation of the Cafeteria/Activities Building now after all of the owner's business decisions were made would be illegal and unconstitutional.

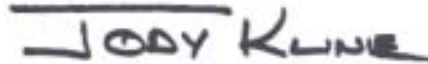
III Summary.

Based on the analysis set forth above, the property owner requests that the Historic District Commission reject the nomination of the Cafeteria/Activities Building on the Chestnut Lodge property because this structure is (a) ineligible to be designated and (b) such historic designation would be unfair and illegal because of the substantial negative affect such designation would have on realization of the reuse of the property. A further practical affect of designation and forced preservation of the Cafeteria/Activities Building would be that the owner would have to revise and scale back its original proffer relating to protection and reuse of buildings located within the existing historic district.

Thank you for your consideration of these points.

Sincerely yours,

MILLER, MILLER & CANBY

A handwritten signature in dark ink that reads "JODY KLINE". The signature is written in a cursive, slightly stylized font. The first name "JODY" is underlined with a horizontal line.

Jody S. Kline

cc: Judy Christensen
Cindy Kebba
Ann Brockett
Bob Spalding
Sondra Block, Esq.
Morton Levine
Kate Kuranda
Steve Gang

SINGLE-SITE HISTORIC DISTRICTS**City of Rockville**

Single-Site Historic Districts	Address	Date of Completion of Construction	Date of Designation
Allnutt House	541 Beall Ave.	1890	1974
Carver High School	850 Hungerford Dr.	1951	2002
Evans Summer House	117 S. Van Buren St.	1923	2002
Flint Hill Farm/ Hurley-Carter House	411 Feather Rock Ct.	1870	2000
	205 Martin's Lane	Late 19 th Cent.	2002
Hattie-Kingdon House	300 Reading Ave.		2002
Hipsley-Thompson House	701 Grandin Ave.	Late 19 th Cent.	2002
Homewood	550 Reading Ave.	c. 1900	2002
Judge Delashmutt House	119 Forest Ave.	1928	2002
Lincoln High School	595 N. Stonestreet	1935	1989
Mrs. Rickett's Cottage	710 W. Montgomery Ave.	1887	2002
Reuben Hill House	305 Lincoln Ave.	1880	2002
Rockville Cemetery	Baltimore Rd. & Avery Rd.	1739	2002
Rose Hill Farm and Mansion	215 Autumn Wind Way	1830-1849	2000
Ross/Powell/Crutchfield House	22 Martin's Lane	1850's	2003
Steinberg House	110 S. Adams St.	1929	2003
Wootton's Mill Miller's House	8 Camden Court	1790 (expanded in 19 th Cent.)	2000
Wootton's Mill	Aintree Drive Watt's Branch	19 th Cent.	2000